



**UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF  
ENVIRONMENTAL  
CLEANUP

**MAR 08 2013**

**GENERAL NOTICE LETTER**  
**URGENT LEGAL MATTER**  
**Previously sent by Email or Fax**

Dunn & Black PS  
Attn: Rick Wetmore,  
Legal Counsel for T.W. Clark and Groat Bros.  
111 N Post Rd #300  
Spokane, Washington 99201-4911

Dear Mr. Wetmore:

Under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), commonly known as the federal "Superfund" law, the U.S. Environmental Protection Agency ("EPA") is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment – that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. EPA has documented that such a release has occurred at the 3860 Ashue Road Asbestos Site ("the Site") located in Wapato, Washington, where demolition debris from the modernization of the Wapato High School was illegally dumped. The debris has been found to contain measurable amounts of asbestos fibers, which constitute hazardous substances under CERCLA.

EPA is considering spending public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. Based on information presently available to EPA, EPA has determined that represent T.W. Clark Construction LLC and Groat Bros who may be a Potentially Responsible Party (PRP) under CERCLA for cleanup of the Site or costs EPA may incur in cleaning up the Site.

EPA would like to encourage communications among you, other PRPs, the Yakama Nation, Yakima County, and EPA in regards to addressing the problems at the Site. Toward that end, we have enclosed a list of names and addresses of PRPs to whom this letter is being sent. We are also inviting you to attend a meeting of all these parties on **March 18, 2013**. The meeting will be hosted by the Yakama Nation at 580 Fort Road, in Toppenish, Washington, with additional details to follow. In general, the purpose of this meeting is to provide you with information about the Site and to reach agreement on a path forward for removing the illegally disposed of material from the Site.

As you may be aware, on January 11, 2002, President Bush signed into law the Superfund Small

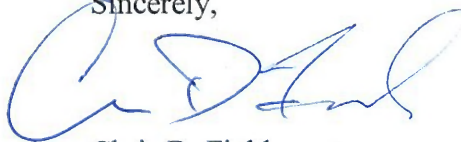
Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law via the Internet at <http://www.epa.gov/swerosps/bf/sblrbra.htm> and review EPA guidances regarding these exemptions at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund>.

EPA has created a number of helpful resources for small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at <http://www.epa.gov>. In addition, the EPA Small Business Ombudsman may be contacted at <http://www.epa.gov/sbo>. Finally, EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act ("SBREFA"), which is enclosed with this letter.

Please give these matters your immediate attention and consider consulting with an attorney. If you have any questions regarding this Site, please contact Jeff Fowlow, On-Scene Coordinator at (206) 553-2751. For any legal questions, please contact Cliff Villa, Assistant Regional Counsel at (206) 553-1185. To confirm your participation in the meeting on March 18, 2013, please notify Cliff Villa at [villa.clifford@epa.gov](mailto:villa.clifford@epa.gov).

Thank you for your prompt attention to this matter and we hope to see you on March 18th.

Sincerely,



Chris D. Field  
Program Manager  
Emergency Management Program

Enclosures

cc: Joseph Sexton, Yakama Nation  
Office of Legal Counsel

Paul McIlrath, Yakima County  
Office of the Prosecuting Attorney

PRPs contact information Ashue Road Asbestos Site 3/7/2013

**Simon and Sandra Gaytan**  
3860 Ashue Road  
Wapato, Washington 98951  
Email: sandjulara@gmail.com

**Mid Valley Recycling Inc.**  
P.O. Box 700,  
Wapato, Washington 98951  
*Registered Agent:*  
Robin Cordova  
P.O. Box 700  
Wapato, Washington 98951  
Fax: 509-877-7801

**attn: Robert Ames**  
Attn: Rick Ames  
Attn: Denny Ames

**Groat Bros., Inc.**  
P.O. Box 1630,  
Woodland, Washington 98674.  
*Registered Agent:*  
Lloyd L. Groat,  
608 W. Scott Ave.,  
Woodland, Washington 98674  
Email: [eclark.groat@icloud.com](mailto:eclark.groat@icloud.com)  
[groat@teleport.com](mailto:groat@teleport.com)

**IRS Environmental of Washington Inc.** **Attn: Rob Reed**  
P.O. Box 15216,  
Spokane Valley, Washington 99215-5216  
*Registered Agent:*  
Robert Reed,  
12415 E Trent,  
Spokane Valley, Washington 99215  
Email: [rob@irsenviro.com](mailto:rob@irsenviro.com)

**T.W. Clark Construction LLC** **Attn: Scott Roundtree**  
1117 N Evergreen Rd #1,  
Spokane, Washington 99216  
*Registered Agent:*  
Clayton D. Linnell,  
1117 N Evergreen Rd #1,  
Spokane, Washington 99216  
Email: [scott@twclark.com](mailto:scott@twclark.com)

**Wapato Public Schools**  
Becky Imler, Superintendent  
P.O. Box 38  
Wapato, Washington 98951  
*Registered Agent same as above*  
Email: [danmu@wapato.k12.wa.us](mailto:danmu@wapato.k12.wa.us)

**Ketchum Enterprises Inc.** **Attn: Milt Ketchum**  
33 S. 2<sup>nd</sup> Ave  
Yakima, Washington 98902  
*Registered Agent:*

Jeffery J Baker  
41 Yellow Brick Rd,  
Trout Lake, Washington 98650  
Email: [milt@ketchumenterprisesinc.com](mailto:milt@ketchumenterprisesinc.com)

**Fulcrum Environmental Consulting**      **Attn: Peggy Williamson**  
406 N. 2<sup>nd</sup> St.  
Yakima, Washington 98901  
*Registered Agent;*  
Travis Trent  
207 W Boone Ave,  
Spokane, Washington 99201  
Email: [pwilliamson@efulcrum.net](mailto:pwilliamson@efulcrum.net)

**Dunn & Black PS**      **Attn: Rick Wetmore**      **Legal Counsel for T.W. Clark and Groat Bros.**  
111 N Post Rd #300  
Spokane, Washington 99201-4911  
Email: [rwetmore@dunnandblack.com](mailto:rwetmore@dunnandblack.com)

**Ahlers & Cressman PLLC**      **Attn: John Ahlers**      **Legal Counsel for Wapato School District**  
999 Third Ave. Suite 3800  
Seattle, Washington 98104  
[jahlers@ac-lawyers.com](mailto:jahlers@ac-lawyers.com)

## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### EPA's Small Business Websites

Small Business Environmental Homepage - [www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org)

Small Business Gateway - [www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)

EPA's Small Business Ombudsman - [www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888

#### EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/  
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

#### EPA's Compliance Assistance Centers

[www.assistancecenters.net](http://www.assistancecenters.net)

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

**Agriculture**  
[www.epa.gov/agriculture/](http://www.epa.gov/agriculture/)

**Automotive Recycling**  
[www.ecarcenter.org](http://www.ecarcenter.org)

**Automotive Service and Repair**  
[www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

**Chemical Manufacturing**  
[www.chemalliance.org](http://www.chemalliance.org)

**Construction**  
[www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911

**Education**  
[www.campuserc.org](http://www.campuserc.org)

**Food Processing**  
[www.fpeac.org](http://www.fpeac.org)

**Healthcare**  
[www.hercenter.org](http://www.hercenter.org)

**Local Government**  
[www.lgean.org](http://www.lgean.org)

**Metal Finishing**  
[www.nmfrc.org](http://www.nmfrc.org)

**Paints and Coatings**  
[www.paintcenter.org](http://www.paintcenter.org)

**Printed Wiring Board Manufacturing**  
[www.pwbrc.org](http://www.pwbrc.org)

**Printing**  
[www.pneac.org](http://www.pneac.org)

**Ports**  
[www.portcompliance.org](http://www.portcompliance.org)

**U.S. Border Compliance and  
Import/Export Issues**  
[www.bordercenter.org](http://www.bordercenter.org)

**Hotlines, Helplines and  
Clearinghouses**  
[www.epa.gov/epahome/hotline.htm](http://www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

**Antimicrobial Information Hotline**  
[info-antimicrobial@epa.gov](mailto:info-antimicrobial@epa.gov) or  
1-703-308-6411

**Clean Air Technology Center (CATC)  
Info-line**  
[www.epa.gov/ttn/cate](http://www.epa.gov/ttn/cate) or 1-919-541-0800

**Emergency Planning and Community  
Right-To-Know Act**  
[www.epa.gov/superfund/resources/  
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

**EPA Imported Vehicles and Engines  
Public Helpline**  
[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or  
734-214-4100

**National Pesticide Information Center**  
[www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-858-7378

**National Response Center Hotline -  
to report oil and hazardous substance spills**  
[www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

**Pollution Prevention Information  
Clearinghouse (PPIC)**  
[www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or  
1-202-566-0799

**Safe Drinking Water Hotline**  
[www.epa.gov/safewater/hotline/index.  
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

**Stratospheric Ozone Protection Hotline**  
[www.epa.gov/ozone](http://www.epa.gov/ozone) or 1-800-296-1996



**Toxic Substances Control Act (TSCA) Hotline**  
tsca-hotline@epa.gov or 1-202-554-1404

**Wetlands Information Helpline**  
www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

### State and Tribal Web-Based Resources

**State Resource Locators**  
www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

**State Small Business Environmental Assistance Programs (SBEAPs)**  
www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

**EPA's Tribal Compliance Assistance Center**  
www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

**EPA's Tribal Portal**  
www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

### EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

**EPA's Small Business Compliance Policy**  
www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

**EPA's Audit Policy**  
www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*